

Regular Session, 2010

SENATE BILL NO. 148

BY SENATORS THOMPSON, LONG, NEVERS, RISER, SMITH AND WALSWORTH

AGRICULTURE/FOREST DEPT. Provides relative to the Department of Agriculture and Forestry and provides for technical changes. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 3:264(F), the introductory paragraph of 556.3(B), 556.4(B),  
3 559.4(I), 559.23(I), 732(D), 904(A), 1431(2), 1433(A)(3), 1440, 1604(A)(2) and (3),  
4 1742(1), 1743(A), 2062, 2091(L), the introductory paragraph of 2097(A), 3206,  
5 3211(B)(2), 3366(B)(2), the introductory paragraph of 3801(C), 3808(E)(4)(a) and  
6 (b), 4153(1) and (2), 4156(2), 4157(D), 4158(A), 4159(A), 4160(A), and 4602(21),  
7 to enact R.S. 3:732(B)(1)(j) and 1433(A)(4), (5), (6), and (7) and to repeal R.S. 3:6,  
8 7, 8, 9, 15, and 3366(B)(3), relative to the Department of Agriculture and Forestry;  
9 to provide relative to membership of various boards and commissions; to provide  
10 relative to voting, officers and meetings; to provide relative to stop orders; to provide  
11 relative to definitions; to provide for technical corrections; to repeal statistics  
12 requirements; to repeal provisions related to the registration of land; to repeal the  
13 Weather Modification Program; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 3:264(F), the introductory paragraph of 556.3(B), 556.4(B), 559.4(I),  
16 559.23(I), 732(D), 904(A), 1431(2), 1433(A)(3), 1440, 1604(A)(2) and (3), 1742(1),  
17 1743(A), 2062, 2091(L), the introductory paragraph of 2097(A), 3206, 3211(B)(2),

3366(B)(2), the introductory paragraph of 3801(C), 3808(E)(4)(a) and (b), 4153(1) and (2), 4156(2), 4157(D), 4158(A), 4159(A), 4160(A), and 4602(21) are hereby amended and reenacted and R.S. 3:732(B)(1)(j) and 1433(A)(4), (5), (6), and (7) are hereby enacted to read as follows:

§264. Louisiana Agricultural Finance Authority

\* \* \*

F. A majority of the members shall constitute a quorum for the transaction of official business. All official actions of the Authority shall require ~~an affirmative~~ **a majority** vote of the members present and voting at any meeting.

\* \* \*

§556.3. Louisiana Crawfish Promotion and Research Board

\* \* \*

B. The board shall consist of ~~fourteen~~ **thirteen** members **appointed by the commissioner of agriculture and forestry.** ~~The commissioner of agriculture and forestry or his designee shall serve as an ex-officio member with the same rights and privileges, including voting rights, as other members. The other thirteen members shall be appointed by the commissioner in accordance with the following provisions:~~

\* \* \*

§556.4. Officers and employees

\* \* \*

B. The board may employ ~~a director and an assistant director, who shall be appointed by the board subject to the approval of the commissioner. The board shall determine the amount of the funds which shall be used for salaries for personnel. The director and assistant director shall be in the unclassified service. The commissioner may employ such other personnel of the board as he deems appropriate. All employees of the board shall be under the direction and supervision of the commissioner.~~ **subordinate officers and employees, prescribe their duties and fix their compensation and terms of employment.**

\* \* \*

§559.4. Louisiana Aquaculture Coordinating Council; creation; organization

\* \* \*

I. The council ~~shall~~ **may** meet ~~as needed~~ at the call of the chairman **or upon the request of any three members.**

\* \* \*

§559.23. Louisiana Aquatic Chelonian Research and Promotion Board

\* \* \*

I. The board ~~shall meet quarterly and~~ may meet on the call of the chairman **or upon the request of any three members.** All meetings of the board and all minutes and records thereof shall be subject to R.S. 42:4.1 et seq. and R.S. 44:1 et seq.

\* \* \*

§732. Livestock Brand Commission

\* \* \*

B.(1) The commission shall be comprised of nine members appointed by the commissioner as follows:

\* \* \*

**(j) At the same time, in the same manner, and for the same term as provided for the appointment of the nine appointed members, the commissioner shall appoint one alternate for each member who shall be appointed from the same list of nominations submitted by the respective organizations. At large alternates shall possess the same qualifications as the member for whom he is appointed as an alternate. When, for any reason, a member is unable to be present at any meeting of the board, the alternate shall serve in his place and shall exercise all of the powers vested by law in the member, including the right to vote.**

\* \* \*

D. The commission shall meet ~~at least quarterly and shall meet at other times~~ **annually or** upon the call of the chairman ~~or of any three members. The commission~~

1 shall not meet more than twelve times in any year.

2 \* \* \*

3 §904. Penalty for violations; injunctive relief; costs

4 A. ~~Except as otherwise specifically provided in R.S. 3:403, whoever~~  
5 **Whoever** violates this Part or the regulations promulgated under this Part shall be  
6 fined not less than twenty-five dollars nor more than five hundred dollars, or  
7 imprisoned for not less than ten days nor more than six months, or both.

8 \* \* \*

9 §1431. Terms defined

10 As used in this Chapter, the following terms have the meanings given:

11 \* \* \*

12 (2) "Agricultural seed" means any lawn, flower, oil, grass, forage, cereal,  
13 fiber, or other kinds of crop seed sold, offered for sale, or used in Louisiana for  
14 agricultural **or other** purposes, and any combinations of such seeds.

15 \* \* \*

16 §1433. Powers and duties of seed commission

17 A. The commission shall:

18 \* \* \*

19 (3) In making rules and regulations, give consideration to the following with  
20 respect to each kind of seed or other propagating stock regulated by this Chapter:

21 (a) The minimum requirements of varietal purity and mechanical standards.

22 (b) The kind, quality, and estimated amounts to be available for sale in  
23 Louisiana during the next succeeding crop season.

24 (c) The demand in Louisiana.

25 (d) The agricultural practices for production in Louisiana as compared with  
26 the practice in other states.

27 (e) The accepted cultural and trade practices prevailing in other states with  
28 respect to offering and displaying for sale, labeling, sampling, and making analyses.

29 (f) The general welfare of growers in Louisiana.

(g)(4) Hold hearings on alleged violations of the provisions of this Chapter or of the rules and regulations adopted pursuant to this Chapter.

(h)(5) Advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Chapter or of the rules and regulations adopted pursuant to this Chapter.

(i)(6) Perform such other advisory functions as the commissioner may assign to the commission.

(j)(7) Declare plants to be weeds or noxious weeds in all or part of the state and to prohibit, restrict, or regulate the sale, distribution, movement, and use of weed seeds or noxious weed seeds by regulations adopted pursuant to this Chapter.

\* \* \*

#### §1440. Stop-sale order

A stop-sale order shall prohibit further sale, exchange, movement, or distribution of seeds included in the order until the commissioner is satisfied that this Chapter and rules and regulations of the commission have been complied with and the commissioner has issued a written release to the person with such seed. After a stop-sale order is given, the person receiving the stop-sale order shall have ~~fifteen~~ **thirty** days within which to comply and to obtain a written release of the order. This Section shall not prevent the commissioner from proceeding in accordance with other Sections in this Chapter.

\* \* \*

#### §1604. Boll Weevil Eradication Commission

A. In accordance with R.S. 36:901, the Boll Weevil Eradication Commission is hereby created within and is transferred to the Department of Agriculture and Forestry and shall consist of eight members as follows:

\* \* \*

(2) Two cotton producers appointed by the commissioner from a list of six persons nominated by the Louisiana Cotton ~~Producers~~ **and Grain** Association.

(3) One cotton producer who does not hold membership in the Louisiana Cotton ~~Producers~~ and Grain Association or the Louisiana Farm Bureau Federation to be appointed by the commissioner from a list of nominees submitted by the chairman of the House Committee on Agriculture, Forestry, Aquaculture and Rural Development and a list of nominees submitted by the chairman of the Senate Committee on Agriculture, Forestry, Aquaculture and Rural Development.

\* \* \*

§1742. Terms defined

The terms used in this Part shall be construed to mean as follows:

(1) "Sweet potatoes" means all sweet potatoes of the grades as recommended by the United States Department of Agriculture ~~and the State Market Commission~~ and such other grades as may be promulgated by the ~~State Market Commission~~ Louisiana Sweet Potato Advertising and Development Commission;

\* \* \*

§1743. Louisiana Sweet Potato Advertising and Development Commission; creation and organization

A. The Louisiana Sweet Potato Advertising and Development Commission is created with its domicile at Baton Rouge, Louisiana, to be composed of ~~twelve~~ thirteen members, ~~eleven~~ twelve of whom shall be appointed by the commissioner of agriculture and forestry. The thirteenth member shall be the commissioner who shall serve as ~~The commissioner shall be~~ an ex officio member of the commission with the same rights and privileges, including voting rights, as other members. Four of the ~~eleven~~ twelve members to be appointed shall be practical sweet potato growers, four shall be handlers or shippers of sweet potatoes, ~~two~~ three shall be commercial ~~canners~~ processors, and one shall be a banker with knowledge of the sweet potato industry.

\* \* \*

§2062. Referendum vote

Sections ~~555.5~~ 2055 through ~~555.11~~ 2061 of this Part shall take effect and be

1 in force at such time as approved in a referendum by eligible cattle producers in which a  
2 majority of those voting approve the measure. The date of voting shall be established by the  
3 commissioner of agriculture and the Louisiana Beef Industry Council and must be held at  
4 the office of the county agent in each parish under the supervision of the county agent and  
5 two producers, who shall register those producers that cast their ballots, count the ballots for  
6 and against at the time designated for the polls to close, sign the report forms, and send all  
7 ballots with the list of those voting and the report forms to the office of the commissioner  
8 of agriculture by registered or certified mail, return receipt requested, on the morning  
9 following the day of the election. The envelopes containing the election reports and ballots  
10 shall be well identified and shall remain sealed until the fifth day following the date of said  
11 election. On the fifth day following the election, the Louisiana Beef Industry Council shall  
12 schedule its quarterly meeting and at that meeting shall make the official count of the ballots.  
13 In all such referenda, in order to be eligible to vote, the proposed voter shall have produced  
14 cattle in the calendar year immediately preceding the referendum. This program may be  
15 extended for an indefinite period of time, in increments not to exceed five years each, by  
16 ratification and approval of a majority of the Louisiana cattle producers who vote in  
17 referenda to be called and held by the council in the manner set forth hereinabove.

18 \* \* \*

19 §2091. Louisiana Board of Animal Health

20 \* \* \*

21 L. The board ~~may meet quarterly and~~ may meet on the call of the chairman  
22 or upon the request of any three members. ~~The board shall not meet more than~~  
23 ~~twelve times in any calendar year.~~

24 \* \* \*

25 §2097. Unlawful transportation of diseased animals or livestock or adulterated meat

26 A. For purposes of this ~~Section~~ **Chapter** the following terms shall mean:

27 \* \* \*

28 §3206. Cooperative agreements

29 The commissioner may enter into any cooperative agreement with any person

1 in order to further the intent and purposes of this ~~Part~~ **Chapter**. Each cooperative  
2 agreement shall be a public record and shall be subject to the provisions of R.S. 44:1  
3 et seq.

4 \* \* \*

5 §3211. Louisiana Advisory Commission on Pesticides

6 \* \* \*

7 B. The commission shall consist of the following eleven members appointed  
8 by the commissioner in accordance with the following provisions:

9 \* \* \*

10 (2) One ground applicator who is a commercial applicator appointed from a  
11 list of three persons nominated by the Louisiana ~~Pesticide Applicators~~ **Vegetation**  
12 **Management** Association.

13 \* \* \*

14 §3366. Administrative rules

15 \* \* \*

16 B. All rules and regulations shall be adopted in accordance with the  
17 Administrative Procedure Act and the following special provisions:

18 \* \* \*

19 (2) The commission shall notify each licensee in writing at his or her last  
20 known address at least seven days prior to any public hearing. **Such notification**  
21 **may be sent by electronic mail.**

22 \* \* \*

23 §3801. Horticulture Commission

24 \* \* \*

25 C. The following members ~~shall serve terms of four years and~~ shall be  
26 appointed by the commissioner, subject to confirmation of the Senate, **and shall**  
27 **serve terms of four calendar years beginning with the year of appointment** in  
28 accordance with the following provisions:

29 \* \* \*

§3808. Terms and conditions of licenses and permits

\* \* \*

E. Landscape architects shall be subject to the following provisions:

\* \* \*

(4)

\* \* \*

(a) The applicant is the holder of a professional degree from a school whose curriculum has been accredited by the accrediting entity approved by the American Society of Landscape Architects or is the holder of a degree which the commission by rule has declared to be the educational equivalent of that degree and has completed a minimum of one year internship under the direct supervision of a licensed landscape architect, or landscape ~~contractor~~ **horticulturist**, or design professional in a related profession.

(b) The applicant has completed six years of practical landscape architectural experience under the direct supervision of a licensed landscape architect or landscape ~~contractor~~ **horticulturist**, or design professional in a related profession.

\* \* \*

§4153. Definitions

As used in this Part, the following terms shall have the meanings ascribed to them in this Section:

(1) "Board" means the Dairy Industry Promotion Board established in R.S. ~~3:557.4~~ **3:4154**.

(2) "Commissioner" means the Louisiana commissioner of agriculture **and forestry**.

\* \* \*

§4156. Powers and duties of the board

The board may:

\* \* \*

(2) Establish and impose assessments on the sale of milk solids, milk fats,

and fluid milk components, subject to the limitations contained in R.S. ~~3:557.8~~  
**3:4158** and R.S. ~~3:557.9~~ **3:4159**.

\* \* \*

§4157. Powers and duties of the commissioner

\* \* \*

D. The commissioner shall appoint and employ all personnel necessary for  
the efficient and proper administration of this Part, except as provided in R.S.  
~~3:557.5 (B)~~ **3:4155(B)**.

§4158. Referendum

A. The assessment authorized in R.S. ~~3:557.9~~ **3:4159** shall not be levied or  
collected unless and until the question of its imposition and the exact amount thereof  
has been submitted to and approved by a majority of eligible dairy producers voting  
in a referendum to be conducted as provided in this Section.

\* \* \*

§4159. Assessment

A. The board is hereby authorized to levy an assessment not to exceed ten  
cents per hundredweight, or equivalent thereof, on all milk solids, milk fats, or fluid  
milk components sold. The assessment shall be due and payable at the first point of  
sale. The assessment shall be paid by each dairy producer who sells milk solids, milk  
fats, or fluid milk components to dairy cooperative associations, processors, or  
distributors. No assessment shall be levied or collected until approved by a majority  
of dairy producers voting in a referendum conducted in accordance with R.S. ~~3:557.8~~  
**3:4158**.

\* \* \*

§4160. Failure to pay assessment; penalty

A. Each dairy cooperative association, processor, or distributor who fails to  
file any report required by the board or to pay the assessment authorized in R.S.  
~~3:557.9~~ **3:4159** after approval in a referendum of dairy producers within the time  
prescribed by this Part shall forfeit to the commissioner the amount of the assessment

1 plus a penalty of ten percent of the assessment due, plus one percent of the  
 2 assessment due for each month, or fraction thereof, of delay after the due date for  
 3 payment of the assessment.

4 \* \* \*

#### 5 §4602. Definitions

6 As used in this Chapter, the following terms shall have the following  
 7 meanings:

8 \* \* \*

9 (21) "Weights, measures, and weighing and measuring devices" includes all  
 10 weights, scales, beams, measures of every kind, instruments and mechanical devices  
 11 for weighing or measuring, scanners or scanning devices that determine product  
 12 identity and price at the point of sale ~~at retail~~, and any appliances and accessories  
 13 connected with any such instruments. However, it does not include or refer to  
 14 devices used to meter or measure, other than by weight, water, natural or  
 15 manufactured gas, or electricity.

16 Section 2. R.S. 3:6, 7, 8, 9, 15, and 3366(B)(3) are hereby repealed in their entirety.

17 Section 3. This Act shall become effective upon signature by the governor or, if not  
 18 signed by the governor, upon expiration of the time for bills to become law without signature  
 19 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
 20 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
 21 effective on the day following such approval.

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The original instrument was prepared by Curry Johnson. The following  
 digest, which does not constitute a part of the legislative instrument, was  
 prepared by Linda Nugent.

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#### DIGEST

Thompson (SB 148)

Present law requires the commissioner to annually collect and compile for publication and  
 distribution, all statistics and facts relating to the character and resources of this State, to be  
 issued in pamphlet, circular, or other forms.

Proposed law repeals present law.

Present law requires the commissioner to keep in his office a register of lands for sale in the  
 state, and the names of persons who desire to purchase lands, or to secure employees or

employment in Louisiana. Provides that any citizen of Louisiana may register in the office of the commissioner any lands owned by him which are for sale in the state, giving an abstract of titles to the lands with a condensed description. Requires the registrant to pay a fee of two dollars to the commissioner for each separate tract or parcel of land registered.

Proposed law repeals present law.

Present law further provides that any person desiring to purchase lands, or to secure employees or employment, may register his name, with a statement of his wants, in the office of the commissioner, on the payment of a fee of 50 cents to the commissioner. Requires the register of the commissioner to be open to public examination free of charge.

Proposed law repeals present law.

Present law requires the commissioner to establish the Weather Modification Program within the department, the purpose of which shall be to develop a method or methods of augmenting precipitation to relieve periods of drought in Louisiana. Empowers the commissioner to:

- (1) Plan and conduct a campaign to publicize and promote weather modification.
- (2) Encourage and assist private industry which has the necessary knowledge and experience to develop pilot weather modification projects.
- (3) Initiate, administer, and/or coordinate research and development projects pertaining to weather modification.
- (4) Contract for, receive, accept, and expend any funds made available from sources outside state government.
- (5) Enter into cooperative agreements or contracts with the state or federal government or private industry with respect to any project or projects involving weather modification.

Proposed law repeals present law.

Proposed law reduces the membership of the La. Crawfish Promotion and Research Board from 14 to 13 members and removes the commissioner as an ex officio member.

Present law provides that La. Crawfish Promotion and Research Board may employ a director and an assistant director, who shall be appointed by the board subject to the approval of the commissioner. Requires the board to determine the amount of the funds which shall be used for salaries for personnel. Provides for the director and assistant director to be in the unclassified service. Authorizes the commissioner to employ such other personnel of the board as he deems appropriate. Provides for all employees of the board to be under the direction and supervision of the commissioner.

Proposed law authorizes the La. Crawfish Promotion and Research Board to employ subordinate officers and employees, prescribe their duties and fix their compensation and terms of employment.

Present law requires the La. Aquaculture Coordinating Council to meet at the call of the chairman.

Proposed law authorizes the La. Aquaculture Coordinating Council to meet upon the request of any three members.

Present law requires the La. Aquatic Chelonian Research and Promotion Board to meet

quarterly and may meet on the call of the chairman.

Proposed law removes the quarterly meeting requirement and authorizes the La. Aquatic Chelonian Research and Promotion Board to meet upon the request of any three members.

Proposed law requires the commissioner to appoint one alternate for each member of the Livestock Brand Commission who shall be appointed from the same list of nominations submitted by respective organizations and possess the same qualifications as the member for whom he is appointed as an alternate. Provides when, for any reason, a member is unable to be present at any meeting of the board, the alternate shall serve in his place, and in such case, the alternate exercises all of the powers vested by law in the member, including the right to vote.

Present law requires the Livestock Brand Commission to meet at least quarterly and shall meet at other times upon the call of the chairman or of any three members. Prohibits the commission from meeting more than 12 times in any year.

Proposed law requires the Livestock Brand Commission to meet annually upon the call of the chairman.

Present law requires that after a stop-sale order is given, the person receiving the stop-sale order shall have 15 days within which to comply and to obtain a written release of the order.

Proposed law changes the time within which to comply from 15 days to 30 days.

Proposed law corrects references from the La. Cotton Producers Association to the La. Cotton and Grain Association.

Proposed law increases the membership of the La. Sweet Potato Advertising and Development Commission from 12 to 13 members and adds the commissioner as an ex officio member of the commission with the same rights and privileges, including voting rights, as other members. Increases the number of commercial processor members from two to three.

Proposed law removes the requirement that the La. Board of Animal Health meet quarterly.

Present law prohibits the La. Board of Animal Health from meeting more than 12 times in any calendar year.

Proposed law removes this provision.

Present law provides that the definition of weights, measures, and weighing and measuring devices includes all weights, scales, beams, measures of every kind, instruments and mechanical devices for weighing or measuring, scanners or scanning devices that determine product identity and price at the point of sale at retail, and any appliances and accessories connected with any such instruments. However, it does not include or refer to devices used to meter or measure, other than by weight, water, natural or manufactured gas, or electricity.

Proposed law retains present law but removes requirement that the product identity and price be made at the point of sale at retail.

Proposed law corrects references from the La. Pesticide Applicators to the La. Vegetation Management Association.

Proposed law authorizes the Structural Pest Control Commission to notify licensees at least seven days prior to any public hearing by electronic mail.

Present law requires Structural Pest Control Commission to mail a copy of an adopted rule

to each licensee at his or her last know address prior to the date the rule becomes effective.

Proposed law repeals present law.

Proposed law corrects a reference from a landscape contractor to a landscape horticulturist.

Proposed law corrects internal references and provides for technical corrections.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 3:264(F), 556.3(B) (intro para), 556.4(B), 559.4(I), 559.23(I), 732(D), 904(A), 1431(2), 1433(A)(3), 1440, 1604(A)(2) and (3), 1742(1), 1743(A), 2062, 2091(L), 2097(A)(intro para), 3206, 3211(B)(2), 3366(B)(2), 3801(C) (intro para), 3808(E)(4)(a) and (b), 4153(1) and (2), 4156(2), 4157(D), 4158(A), 4159(A), 4160(A) and 4602(21); Adds R.S. 3:732(B)(1)(j) and 1433(A)(4), (5), (6), and (7); Repeals R.S. 3:6, 7, 8, 9, 15 and 3366(B)(3))

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Agriculture, Forestry, Aquaculture, and Rural Development to the original bill.

1. Changes the definition of weights, measures, and weighing and measuring devices to include devices that determine product identity and price at the point of sale at all levels.
2. Removes the repeal of fees for chemical analysis conducted by the director of agriculture chemistry.
3. Provides for technical corrections.

#### Summary of Amendments Adopted by Senate

##### Senate Floor Amendments to engrossed bill.

1. Provides that alternates to the Livestock Brand Commission shall be appointed from the list of nominations submitted by the respective organizations instead of an alternate being appointed from the same area.
2. Technical amendments.